

### REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 20-35 will be pending in the application subsequent to entry of this amendment. Claims 1-19 have been deleted and replaced by a new claim set.

#### Discussion of Amendments to the Claims

The claims have been amended in order to more particularly point out and distinctly claim that which applicants regard as their invention, to focus on allowable subject matter and to make the changes suggested in item 2 of the Official Action. More specifically, previous claims 7, 9, 10, 12 and 14 are combined with the combination of original claims 1 and 2.

New claim 23 is limited to ligands of the original claim 12, wherein  $s = 0$  with Y representing a (substituted) cyclopentadienyl, (substituted) indenyl, (substituted) fluorenyl, (substituted) heterocyclopentadienyl, (substituted) heteroindenyl, (substituted) heterofluorenyl, or an imine group.

As the catalyst comprises a composition of an organometallic compound and a spectator ligand, there is no evidence in the description of pages 8 and 9 of a bond between the spectator ligand and the organometallic compound. This aspect therefore has been removed from the new claims 22 and 23.

With regards to comment 2: By combining claims 1 and 2 in the new claims 20 to 24, "M" no longer lacks antecedence.

It is respectfully submitted that new claims 20-35 are based upon disclosed subject matter, as explained above, and thus do not contain new matter. Moreover, these claims are compliant with 35 USC §112, second paragraph. Favorable consideration is requested.

#### Response to Prior Art-Based Rejections

The Official Action did not treat claims 8 and 17-19 on the merits, however counsel is advised that these claims are the subject of an anticipation rejection based upon Lyu, thus item 4 of the Official Action has been treated with this adjustment in mind.

With regards to comment 4: The present claims are novel over Boussie's Example 14, in particular by limiting the old claim 12 to ligands wherein  $s=0$ .

The present claims are novel over Guram, in particular by limiting Y in claim 23 to a (substituted) cyclopentadienyl, (substituted) indenyl, (substituted) fluorenyl, (substituted)

heterocyclopentadienyl, (substituted) heteroindenyl, (substituted) heterofluorenyl, or an imine group.

The present claims are also novel over Lyu, because alcohols are not within the scope of the present claims.

In a second rejection, claim 13 (only) was rejected as being unpatentable over the Guram reference. This rejection is also no longer pertinent for the reasons that are explained as follows:

The present claims are also inventive in view of the other references cited by the Examiner:

Claim 20 is inventive as none of the references suggest a process in the presence of a catalyst composition of an organometallic reagent and an imine spectator ligand.

Claim 21 is inventive as none of the references suggest a process in the presence of a catalyst composition of an organometallic reagent and two Cp comprising spectator ligands.

Claim 22 is inventive as none of the references suggest a process in the presence of a catalyst composition of an organometallic reagent and a spectator ligand according to claim 22.

Claim 23 is inventive in view of Boussie: Boussie describes processes in the presence of ligands with more electron donating groups than covered by the scope of claim 23. From the 18 electron rule it is known that this leads to an improved stability of a possible complex with the organometallic compound that is expected to be responsible for favorable polymerization activities.

From Boussie a person skilled in the art cannot derive that spectator ligand according to claim 23 with less electron donating groups are suitable in active polymerization catalyst compositions.

Claim 23 is also inventive in view of Guram, as Guram does not suggest that active polymerization can be obtained using spectator ligand comprising a (substituted) cyclopentadienyl, (substituted) indenyl, (substituted) fluorenyl, (substituted) heterocyclopentadienyl, (substituted) heteroindenyl, (substituted) heterofluorenyl, or an imine group.

Claim 23 is also inventive in view of Lyu, as Lyu does not suggest any other ligands but alcohols, let alone the ligands according to claim 23.

Claim 24 is inventive as none of the references suggest a process in the presence of

catalyst composition of an organometallic compound of group 7 - 11 and a spectator ligand according to claim 24.

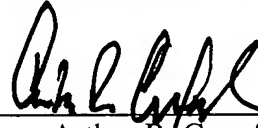
With regards to comment 6: The obviousness of old claim 13 (new claim 31) is taken away by the non-obviousness of claim 23 and also because Guram does not disclose the preference for a reduced oxidation state (page 9, lines 11 and 12) and in particular not group 4 metals with a valency of 3.

The examiner has indicated claims 9-11 to be allowable and much of this carries forward to the amended claims presented above. Applicants submit that all of the pending claims in this application are directed to patentable subject matter. Reconsideration and allowance are solicited. Should the examiner require further information, please contact the undersigned.

Respectfully submitted,

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